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FISCAL IMPACT STATEMENT

LS 7327

BILL NUMBER: HB 1796

NOTE PREPARED: Jan 11, 2007

BILL AMENDED:

SUBJECT: Alcoholic Beverages.

FIRST AUTHOR: Rep. Austin

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Definition of Grocery Store:* This bill defines "grocery store".

Random ATC Searches: The bill requires the Alcohol and Tobacco Commission (ATC) to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed.

Sting Operation Purchases by 18 yr. olds: This bill allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action.

Beer Dealer Permit Quota Change: The bill allows the ATC to grant one: (1) beer dealer's permit in an incorporated city, town, or unincorporated town for each 2,000 persons; and (2) liquor dealer's permit in an incorporated city, town, or unincorporated town for each 1,500 persons. (Current law allows the commission to grant one beer dealer's permit and one liquor dealer's permit for each 1,500 persons.) The bill also allows the ATC to renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer who held a permit before July 1, 2007, and does not qualify for a permit as a result of the quota requirement.

Penalties for Sales to Minors: The bill establishes penalties for an alcohol permit holder, the holder's agent, or the holder's employee that furnishes alcohol to a minor. The bill makes it a Class B misdemeanor for a person to recklessly sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor. (Under current law, the offense is a Class C misdemeanor.)

Package Store Commodity Requirements: The bill also repeals the limitation on commodity requirements for package liquor stores.

Effective Date: July 1, 2007.

Explanation of State Expenditures: This bill will cause an increase in administrative costs for the ATC. The ATC will have to amend rules, forms, permit, and enforcement procedures to implement the provisions of this bill. It is estimated that these changes could be made through the use of existing staff and resources available to the ATC. The increase in expenditures may also be offset if dealer permit fee revenue increases as a result of the bill.

Explanation of State Revenues: *Definition of Grocery Store:* This bill defines grocery store as a store or a part of a store that:

- (1) has the primary North American Industry Classification System (NAICS) classification 445110, 452910, 445120, or 447110; and
- (2) offers for sale all of the following:
 - (A) Fine wines.
 - (B) Specialty beers.
 - (C) Gourmet cooking and wine accessories.
 - (D) Meats.
 - (E) Cheeses.
 - (F) Package specialty foods.

This bill's impact dealer permit fee revenue is indeterminable. The impact on fee revenue will ultimately depend on the administrative actions of the ATC, and the number of permits issued to dealer's that previously may not have qualified as a grocery store. According to the ATC there are approximately 1,240 grocery store dealer permits issued under IC 7.1-3-5-2.

The bill gives the ATC the option of renewing or transferring ownership of a beer dealer's permit for a grocery store held by a permittee who falls outside this new definition of grocery store in the bill. Therefore, the total number of permits issued may not decrease.

The definition of grocery store in the bill could include convenience stores (NAICS code 445120), grocery stores (other than convenience stores) (NAICS code 445110), warehouse clubs and superstores (NAICS code 452910), and gas stations with convenience stores (NAICS code 447110).

Beer Dealer Permit Quota Change: The bill allows the ATC to grant one: beer dealer's permit in an incorporated city, town, or unincorporated town for each 2,000 persons (1,500 persons under current law). The bill also allows the ATC to renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer who held a permit before July 1, 2007, and does not qualify for a permit as a result of the quota requirement. This change in the quota requirement will decrease the total number of beer dealer permits that may be issued.

Therefore, this provision of the bill could cause a decrease in dealer permit fee revenue. The impact is indeterminable and will ultimately depend upon the number of cities and towns that have already issued the full number of allowable dealer permits. By allowing the ATC to renew or transfer beer dealer permits issued prior to July 1, 2007 the total number of beer dealer permits currently issued should not decrease.

The impact will only be realized for a city or town that has a decrease in the number of available (unissued) permits. For example, on July 2, 2007, a city has issued 5 dealer permits, and under the current quota could issue 5 more permits. If this bill passes, that city, under the new quota in the bill, may only be allowed,

because of the population restrictions, to issue 2 more dealer permits. Therefore, the true impact is the decrease in the number of unfilled permits. In this example, the impact would be the decreased amount of potential fee revenue from a 10 permit quota going down to a 7 permit quota.

Package Store Commodity Requirements: The bill repeals the limitation on commodity requirements for package liquor stores. By removing these requirements, the number of entities eligible for a permit as a package liquor store may increase. Therefore, this provision may cause an increase in dealer permit fee revenue.

Under current law, a package liquor store's exclusive business must be the selling of the following items:

- (1) Liquor in its original package.
- (2) Beer in permissible containers, if the permittee has the proper permit.
- (3) Wine in its original package.
- (4) Bar supplies used in the preparation for consumption of alcoholic beverages and in their consumption.
- (5) Tobacco products.
- (6) Uncooled and uniced charged water, carbonated soda, ginger ale, mineral water, grenadine, and flavoring extracts.
- (7) Printed materials.
- (8) Lottery tickets.
- (9) Cooled or uncooled nonalcoholic malt beverages.
- (10) Flavored malt beverage in its original package.

Background on Dealer Permit Fee: The fee for a beer, liquor, or wine dealer permit is \$500 each, paid annually. These fees are deposited in the Excise Fund, and then redistributed 37% to the state General Fund, 33% to the general funds of cities, towns and counties, and 30% to the Enforcement and Administration Fund.

Background on Alcohol Sales: To the extent that any of the provisions of this bill affect alcoholic beverage sales, state revenues will be impacted. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax. The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund, the ATC Enforcement and Administration Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population. Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Penalties for Sales to Minors: The bill establishes civil penalties for an alcohol permit holder, the holder's agent, or the holder's employee that furnishes alcohol to a minor. The bill also makes it a Class B misdemeanor for a person to recklessly sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor. (Under current law, the offense is a Class C misdemeanor.)

Any civil penalties collected would increase revenue to the Enforcement and Administration Fund (EAF), the state General Fund, and the general funds of cities and towns. The penalty revenue would be deposited 34% in the EAF and 66% in the state General Fund. The state would then retain 50% of the General Fund distribution, and the remainder is distributed to cities and towns based on population.

As a result of the change in the criminal penalty for sales to minors, revenue to the Common School Fund may increase if a person is sentenced for a Class B misdemeanor rather than for a Class C misdemeanor. The maximum fine for a Class C misdemeanor is \$500, while the maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue is likely to be small. Court fees would remain unchanged.

Explanation of Local Expenditures: *Penalties for Sales to Minors:* The maximum term of imprisonment for a Class C misdemeanor is up to 60 days, while the maximum term for a Class B misdemeanor is up to 180 days. However, any additional costs to local governments are likely to be small.

Explanation of Local Revenues: *Penalties for Sales to Minors:* Court fees would remain unchanged. Any civil penalties collected would increase revenue to the Enforcement and Administration Fund (EAF), the state General Fund, and the general funds of cities and towns. The penalty revenue would be deposited 34% in the EAF and 66% in the state General Fund. The state would then retain 50% of the General Fund distribution, and the remainder is distributed to cities and towns based on population.

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: ATC Permit Count, October 2006.

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